

Strengthening Forensic Science in the United States

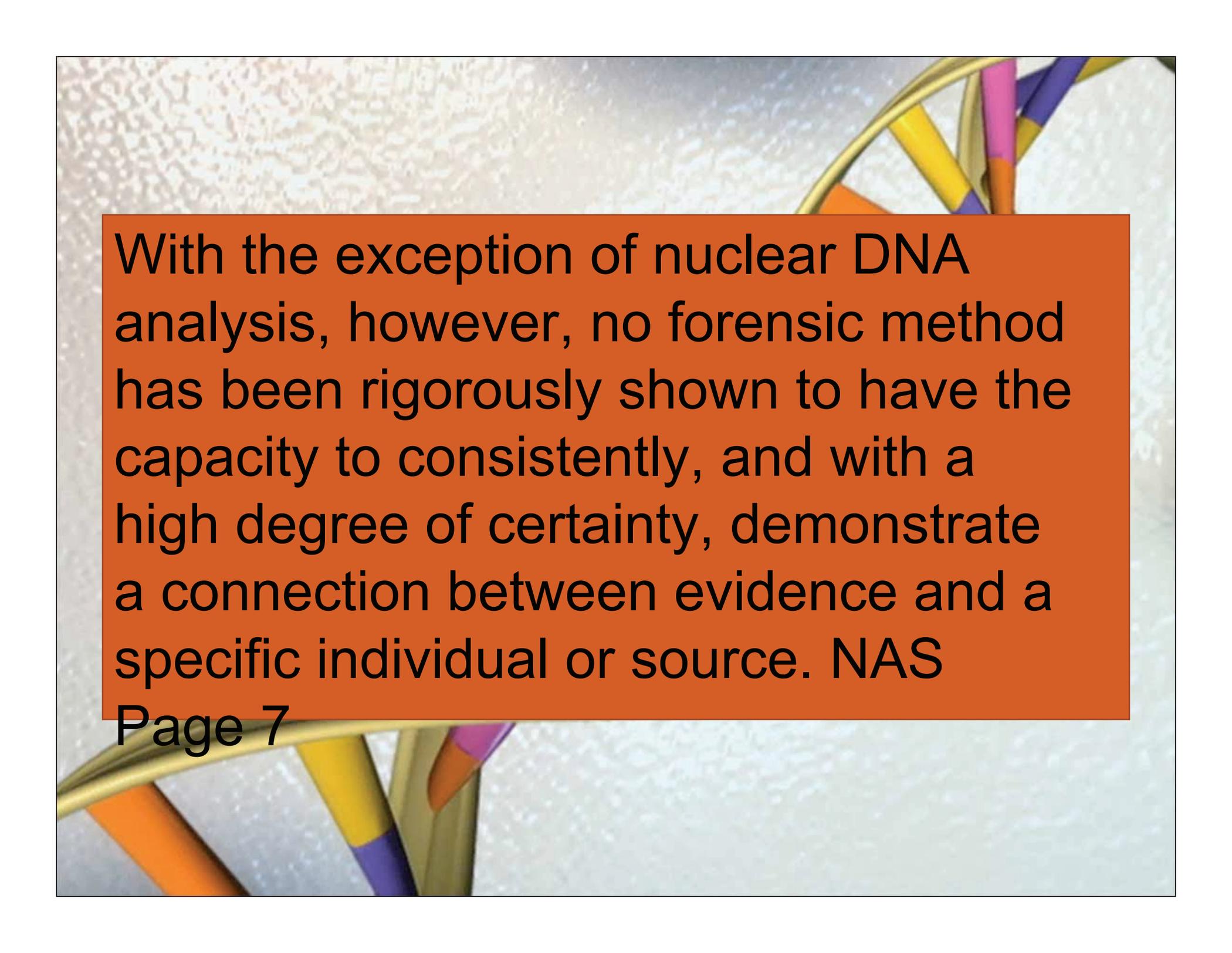
Jennifer Friedman

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Department of Justice Conference on
Indigent Defense

“In a number of forensic science disciplines, forensic science professionals have yet to establish either the validity of their approach or the accuracy of their conclusions, and the courts have been utterly ineffective in addressing this problem.” NAS
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With the exception of nuclear DNA analysis, however, no forensic method has been rigorously shown to have the capacity to consistently, and with a high degree of certainty, demonstrate a connection between evidence and a specific individual or source. NAS

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- “Although there is limited information about the accuracy and reliability of friction ridge analyses, claims that these analyses have zero error rates are not scientifically plausible.”

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“We run the risk of our science being questioned in the courts because there is so little research.”

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Barry Fisher- Former Crime Lab Director
LASO

JFS (2000)

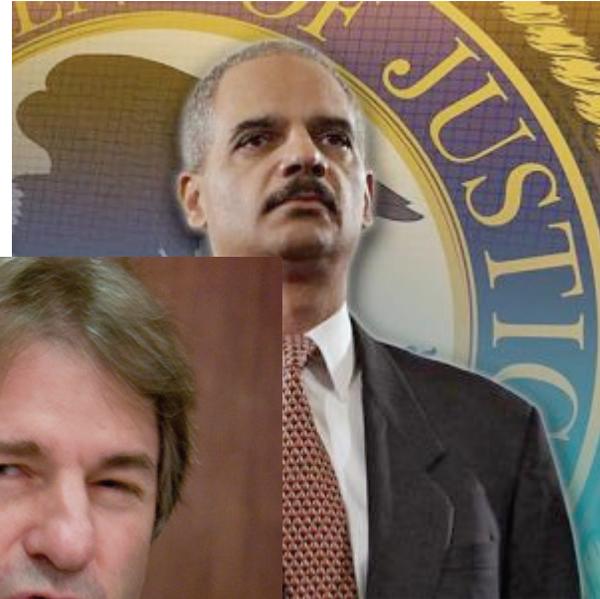
- “It must be observed that there is no rational or scientific ground for making claims of absolute certainty in any of the traditional identification sciences, which include fingerprint, document, firearms, toolmark and shoe and tire-tread analysis. Case specific conclusions of identity rest on a fundamental proposition or hypothesis; namely, that no two fingerprints, bullets, etc. from different sources will appear sufficiently similar to induce a competent forensic examiner to posit a common source. But as any logician or philosopher of science would insist, no hypothesis can be proved absolutely.” (Stephen G. Burch, FBI Firearms/ Toolmarks Unit)

Significance of the Report to Practice of Law

“The NRC’s conclusions
“can easily be equated with
general acceptance . . . in
the relevant scientific
community.”

People v. Venegas 18 Cal.4th 47 (1998), *United States v. Morrow*, 374 F. Supp. 2d 42, 49 (D.C. 2005) ; *United States v. Shea*, 957 F. Supp. 331, 338-39 (D.N.H. 1997)

Education



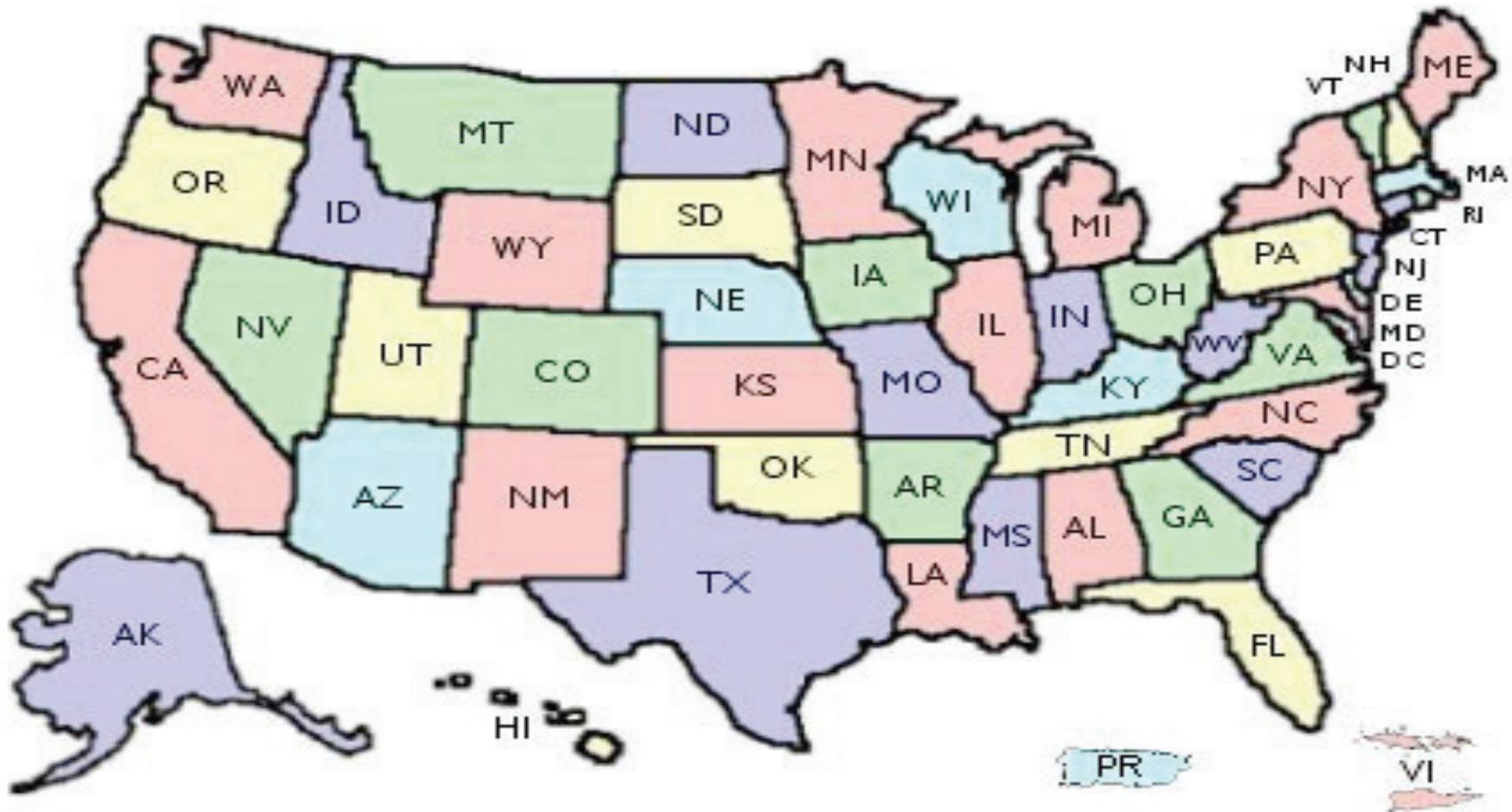
EXPERT ASSISTANCE

Consult

Conduc
Testing

Testify

Funding for Expert Assistance





Why are these two types of evidence treated so differently by the courts? Is there any reason they should be?

CHALLENGE ADMISSIBILITY:

Daubert and Frye

- **HAS THE VALIDITY AND RELIABILITY BEEN SCIENTIFICALLY ESTABLISHED?**
(Scientist/Judge)

LIMITING TESTIMONY

- I observed similarities
- I Cannot exclude
- Error rate is unknown





TRANSPARENCY

LA TIMES

Transparency is a
hallmark of good science.
“Science and secrecy do
not sit comfortably
together.”

A Culture of Science

Duncan v. Ornoski

Conclusion

- Evidence admitted must be limited to what is supported by the research
- There must be a steady stream of funds available to indigent defense attorneys who seek expert assistance
- Judges, prosecutors and defense attorneys must be educated and
- Laboratories must be open and transparent and understand their disclosure obligations.